

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

No. C 06-00556-2 CRB

Plaintiff,

ORDER

v.

STEPHANIE JENSEN,

Defendant.

The parties have proposed jury instructions, which this Court intends to defer ruling upon until a later date. However, the government requests an immediate judgment on the defendant's proposed jury instruction defining "books, records, and accounts," as those terms are used in 15 U.S.C. § 78m(b)(2)(A). Because the Court's ruling on this instruction may impact opening statements and determine what evidence the government will need to adduce at trial, this Court grants the government's request to issue a ruling on the proposed instruction.

The defendant requests an instruction providing that:

A book, record or account is a document that was created or maintained to accurately and fairly reflect, in reasonable detail, the transaction and disposition of assets of a company for the purpose of making reports to the SEC. It does not include each and every document or record created in the normal course of business at a company and does not include documents that have no connection to the company's SEC reports.

This Court agrees with the government that the defendant's instruction would unduly limit the meaning of "books, records, and accounts" as used in § 78m.

1 This Court is amenable to providing an instruction on the meaning of “books, records,
2 and accounts,” but will exercise its “broad discretion,” United States v. Hayes, 794 F.2d
3 1348, 1351 (9th Cir. 1986), to formulate the wording of the instruction as follows:

4 A book, record or account is a document that was created or maintained to
5 accurately and fairly reflect, in reasonable detail, the transactions and
6 dispositions of the assets of the company.

7 **IT IS SO ORDERED.**

8
9 Dated: November 9, 2007



CHARLES R. BREYER
UNITED STATES DISTRICT JUDGE